

REMARKS/ARGUMENTS

1. **Claim Rejections - 35 U.S.C. § 112:** Claims 19 and 30-49 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In response, the applicant
5 has canceled claims 31, 36-45, 49 and has amended claims 19, 30 and 46.

As for claims 19 and 46, the examiner considered the description of the location of the current stoppage means (claim 19) and fuse (claim 46) to be indefinite. The amendments to claims 19 and 46 recite the location of the current stoppage means and fuse as “coupled to the proximal end of the electrode aft of the conductive lead,” which is in conformance with their
10 described location in the specification (see specification at page 6, lines 1-2; and page 10, lines 3-11). This positioning overcomes the problem of insufficient protection illustrated in Figure 3 of the application. Claims 19 and 46 are believed to now be in a condition for allowance. Claims 47 and 48 depend from claim 46 and are therefore *a fortiori* patentable.

Regarding claim 30, the applicant has amended this claim by adding the language “a
15 current stoppage means connected aft of the conductive lead and immediately adjacent to the proximal end of the electrode.” This language should provide the necessary specificity required by the examiner regarding the positioning of the current stoppage means and render claim 30 allowable. Claims 32-35 depend from claim 30 and are therefore *a fortiori* patentable.

2. **Claim Rejections - 35 U.S.C. § 102(b)** - Claims 30-31, 33 and 37 were rejected under 35
20 U.S.C. § 102(b) as being anticipated by the Kroll ‘369 and 019 patents. In response, the applicant has amended claim 30 and canceled claims 31 and 37. The examiner argued that the Kroll patents show the current stoppage means positioned “aft” of the conductive lead and coupled to the proximal end of the electrode. The applicant’s amendments for purposes of claim 30 more specifically place the positioning of the current stoppage means as being “connected aft of the
25 conductive lead and immediately adjacent to the proximal end of the electrode.” The drawings support the “immediately adjacent” positioning of the current stoppage means.

Kroll teaches a current stoppage means that is not positioned "immediately adjacent" to the proximal end because if Kroll did teach such a positioning, then inductive current "pickup" would not be an issue in Kroll. The applicant has solved the pickup problem in claim 30 by the "immediate adjacent" positioning of the current stoppage means to the proximal end. This eliminates the conductive lead from becoming a pickup conduit (see specification page 10, lines 3-11). Therefore, the invention of claim 30 stops current flowing from machine sources, rather than from "pickup" sources, because the possibility of pickup is eliminated. However, in the Kroll '369 patent "pickup" or "outside current sources in the clinical environment" are still a problem (see col. 3, lines 29-41). Kroll has solved the problem by using a bi-directional current limiter, which dampens both current originating from a medical appliance as well as "pickup" sources. A bi-directional current limiter is required in the Kroll device, because there is still enough of a conductive lead between the current limiter and proximal end of the electrode of the Kroll invention such that "pickup" current still occurs. Kroll does not speak to any "immediate adjacent" positioning of the current stoppage means to the proximal end, thereby rendering claim 30 allowable, as amended. Claims 32-35 depend from claim 30 and are therefore *a fortiori* patentable.

3. **Claim Rejections - 35 U.S.C. § 103** - Claims 40-43 were rejected under 35 U.S.C. § 103. In response the applicant has canceled these claims.

4. **New Claims** - New claims 50-66 have been added. Claims 50-56 are similar to amended claim 19, except that while claim 19 includes the element of a proximal end having a portion formed in the shape of a contact lens, claims 50-56 have proximal ends having portions formed in other shapes (e.g. a plate, corkscrew, earplug, etc.). If amended claim 19 is found allowable, claims 50-56, it follows should likewise be found allowable.

Claims 57 -66 are new and are being presented for consideration.

5. **Allowable Claims** - The undersigned attorney thanks the examiner for the allowance of claims 21-23, in the instant case. Claim 22 has received a minor amendment changing "said" to "the" for purposes of keeping the claim language consistent.

6. **Change in Correspondence Address to Attorney of Record** - In compliance with 37 CFR 1.33 and MPEP 403 it is requested that all future correspondence be sent to the attorney of record at the following address:


John P. Costello, Esq.
331 J Street, Suite 200
Sacramento, CA 95814

7. **Petition for Extension of Time** - A petition for extension of time, with the appropriate fee is being mailed with this office action response.

8. The undersigned, an attorney licensed to practice before the Patent and Trademark Office requests that the Examiner find the present application in a condition for allowance, and any questions regarding this response be directed to the Applicant's attorney at (916) 441-2234.

Dated: November 4, 2003

Respectfully Submitted,


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